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Petition for Certificate of Correction Under 37 CFR §1.324 to Correct Inventor Names

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GROUP 3700

Attorney Docket No.: 08563-0140-1

Application No.: 10/067,155 / US Patent No. 6,810,585

Filing Date: February 4, 2002 / Issued: November 2, 2004

FAX NUMBER: (717) 237-5300

PARALEGAL RESPONSIBLE: Kimberly A. Newell

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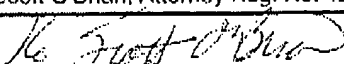
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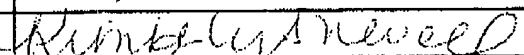
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/067,155 / US Patent No. 6,810,585	
	Filing Date	February 4, 2002 / Issued: Nov. 2, 2004	
	First Named Inventor	Teresa R. HICKOK	
	Art Unit	3732	
	Examiner Name	Todd E. MANAHAN	
Total Number of Pages in This Submission	6	Attorney Docket Number	08563-0140-1

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> Alter Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Certificate of Fax Transmittal
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	McNees Wallace & Nurick LLC K. Scott O'Brian, Attorney Reg. No. 42,946
Signature	
Date	March 2, 2005

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Kimberly A. Nowell		
Signature		Date	March 2, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Attorney Docket No. 08563-0140-1
U.S. Patent 6,810,585 B2

MAR 02 2005**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of Teresa R. Hickok :
: Group Art Unit: 3732
U.S. Patent No.: 6,810,585 B2 :
Issue Date: November 2, 2004 : Examiner: Manahan, Todd E.

For: MICROENDODONTICS ULTRASONIC SURGICAL DENTAL TOOL HAVING
WATER PORT AND METHOD OF MAKING SAME

**PETITION FOR CERTIFICATE OF CORRECTION UNDER 37 CFR
§ 1.324 TO CORRECT INVENTOR NAMES**

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Dr. Kim is added as an inventor as a result of a Settlement Agreement in the lawsuit, Dentsply International, Inc. v. Earth City Technologies, Inc., United States District Court for the Eastern District of Missouri, Eastern Division (Case No.: 4:01CV00173HEA). During prosecution of the lawsuit, certain facts were brought to light to indicate that Dr. Kim is a co-inventor of the application as a result of contributions to at least one of the claims of the subject application made during the development of the invention by Ms. Hickok. Nevertheless, this omission was erroneous and without deceptive intent. The assignee of the application has thus acted to comply with 35 U.S.C. § 116 and 37 CFR § 1.48, to correct inventorship by providing the required declarations, chain of title and other documents to add Dr. Kim as the inventor.

A summary of correspondence in this regard follows. On April 6, 2004, Applicant submitted an unsigned Declaration adding Dr. Kim as an inventor. A Notice of Allowance dated May 3, 2004 was sent by the U.S. Patent Office. Apparently, the papers were lost by the U.S. Patent Office after receipt, so Applicant submitted a status letter on June 14, 2004. On July 13, 2004, the Examiner, recognizing Applicant's attempt to add an inventor, submitted a Response, citing deficiencies under 37 CFR 1.48(a). On August 2, 2004, Applicant sent by facsimile to the

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Examiner documents required by the Examiner believed to resolve deficiencies regarding the petition to correct inventorship.

On August 3, 2004, the last day possible to pay the Issue and Publication Fees without the application going abandoned as it was three months after the mailing date of the Notice of Allowance, Applicants timely paid the Issue and Publication Fees. On September 20, 2004, the Examiner sent an Examiner's Amendment citing yet another deficiency for the correction of inventorship under 37 CFR 1.48(a). On October 13, 2004, Applicant provided documents addressing this deficiency. On October 20, 2004, Applicant received an Issue Notification, stating the projected issue date was set for November 2, 2004. Indeed, on November 2, 2004, U.S. Patent No. 6,810,585 issued, however, Dr. Kim had not been added as an inventor.

On February 2, 2005, the undersigned teleconferenced with the Examiner regarding the status of the 37 CFR 1.48 petition, noting that MPEP 1481 provides that a 37 CFR 1.48 petition filed in a pending application but not acted upon until after the application becomes a patent, may be treated as a petition under 37 CFR 1.324. The Examiner had concurred that the 37 CFR 1.48 petition had been timely filed, and that this matter would be placed on a "hot docket" and the 37 CFR 1.48 petition approved. However, no documents were filed making this a matter of record, as November 2, 2004 is the most recent entry in PAIR as of February 28, 2005.

CONCLUSION

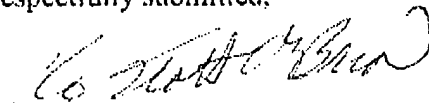
Applicant has acted promptly upon learning of the circumstances giving rise to the correction of inventorship, and has diligently and timely provided documents to the Examiner, and respectfully requests that in accordance with MPEP 1481, the petition under 37 CFR 1.48 be timely approved as well as timely approval of the petition under 37 CFR 1.324 to correct inventorship.

If a telephone conference would expedite this matter, the Examiner is encouraged to contact the undersigned.

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The Commissioner is hereby authorized to charge indicated fees and any additional fees and credit any overpayments to Deposit Account No. 50-1059, although none should be required as timely fees were paid for the petition under 37 CFR 1.48.

Respectfully submitted,



Dated: March 2, 2005

K. Scott O'Brian
Reg. No. 42,946

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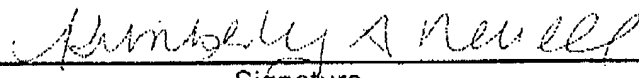
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Transmittal Form

Petition for Certificate of Correction Under 37 CFR §1.324 to Correct Inventor
Names

Certificate of Fax Transmittal

Attorney Docket No.: 08563-0140-1

Application No.: 10/067,155 / US Patent No. 6,810,585

Filing Date: February 4, 2002 / Issued: November 2, 2004

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